

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION
SECRETARIAT

In the Matter of

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CASE CLOSURES UNDER
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

The cases listed below have been evaluated under the Enforcement Priority System ("EPS") and identified as low priority, stale, or ADR transfers. This report is submitted in order to recommend that the Commission no longer pursue these cases for the reasons noted below.

II. CASES RECOMMENDED FOR CLOSURE

**A. Cases Not Warranting Further Action Relative to Other Cases
Pending Before the Commission**

EPS was created to identify pending cases that, due to the length of their pendency in inactive status, or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditures of resources. Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-approved criteria that result in a numerical rating for each case.

Closing
these cases permits the Commission to focus its limited resources on more important cases presently pending in the Enforcement docket. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters. We recommend that all cases be closed.¹ Attachment 1 to this report contains a factual

¹ These cases are: RR02L-03 (15th District Democratic Party); MUR 5242 (Michigan Democratic State Central Committee); MUR 5243 (Oberweis for US Senate, Inc.); MUR 5244 (Lorski for Congress); MUR 5250 (NRCC Economic Recovery Workshop); MUR 5254 (Hampden-Sydney College); MUR 5257 (Tom Feeney); and MUR 5258 (Tom Feeney for Congress).

summary of each case recommended for closure, the case EPS rating, and the factors leading to the assignment of a low priority.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources primarily because the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. EPS provides us with the means to identify those cases that, remain unassigned for a significant period due to a lack of staff resources for an effective investigation. The utility of commencing an investigation declines as these types of cases age, until they reach a point when activation of such cases would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend that cases be closed³ and one case continued to be held open.⁴

³ These cases are: MUR 5036 (*National Education Association*); MUR 5037 (*National Education Association*); MUR 5086 (*Federation for American Immigration Reform*); and MUR 5191 (*Democratic State Central Committee*)
MUR 5042 (*DNC Services Corporation*) is closely related to MURs 4530 (*DNC*), 4531 (*DNC*), 4642 (*DNC*), and 4547 (*John Huang*) presently pending before the Commission, and dismissal at this time seems inappropriate.

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IV. RECOMMENDATIONS

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the day that the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

1. Decline to open a MUR, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letter in:

RR02L-03

2. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in:

	MUR 5036	MUR 5037
MUR 5086	MUR 5191	
MUR 5242	MUR 5243	MUR 5244
MUR 5250	MUR 5254	MUR 5257
MUR 5258		

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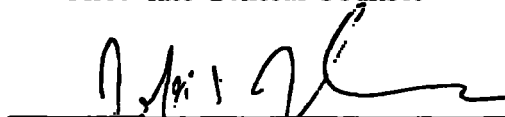
Date



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MUR 5037

Complainant: Landmark Legal Foundation

Respondent: National Education Association ("NEA")
National Education Association Political Action Committee ("NEAPAC")

Allegations: Complainant, Landmark Legal Foundation, alleged that the NEA made, and continues to make, direct and in-kind contributions in support of federal campaigns. Additionally, complainant alleged that the NEA concealed the full extent of its political activities in support of federal elections when it integrated its political activities into its general operations. Complainant specifically alleged that the NEA used its general treasury fund to (1) finance specific budget items that were designed to influence federal elections by intentionally targeting the general public without limiting its reach or influence to strictly union members; and, (2) the NEA established the UniServ program, which permitted its director's participation in, and coordination of, campaign assistance to federal candidates by having a national union select, train, and fund "paid political operatives" who allegedly masqueraded as employees of local affiliates while working to influence federal elections. Complainant also highlighted other "examples and indicators" of the NEA's improper support of federal candidates by pointing to the high number of Democratic National Committee ("DNC") delegates who are members of the NEA, and public statements made by the NEA that indicate support of DNC initiatives and its inclusion in planning meetings.

Response: The NEA responded that activities cited in the complaint failed to provide any evidence of a violation of the Federal Election Campaign Act ("Act"). Moreover, the NEA noted that the references to its budget found in the complaint, which showed what activities the NEA was planning in the future, did not represent actual expenditures it made and the mere planning of future activities did not fall within the confines of the Act. Moreover, assuming the NEA did follow through with the alleged activities and expenditures suggested in the complaint, such activities and expenditures would not give rise to violations of the Act. For example, the NEA pointed out that the UniServe employees who were discussed in the complaint engaged primarily in collective bargaining, contract administration, grievance processing, and the training of new members. In fact, any "political" activity involving UniServe members was limited to local and state elections. Additionally, the NEA stated that its training brochure, "How to Raise Money for NEA-PAC: Education's Defense Fund," describes permitted activity under the Act, since it involves the solicitation of funds to a separate segregated fund for political purposes by a labor organization.

NEAPAC did not respond to the complaint.

Date complaint filed: June 26, 2000

Date response received: August 21, 2000